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10/569,952

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EXAMINER

STULTZ, JESSICA T

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/569,952	<b>Applicant(s)</b> ALTHEIMER ET AL.	
	<b>Examiner</b> JESSICA T. STULTZ	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 2873

## **DETAILED ACTION**

### ***Specification***

The amendments to the specification filed August 3, 2009 overcome the previous objections to the specification.

The disclosure is objected to because of the following informalities: Title, "Error-Tolerant Progressive Glas Design" should be "Error-Tolerant Progressive Glass Design" or "Error-Tolerant Progressive Lens Design".

Appropriate correction is required.

### ***Claim Objections***

Claim 13 is objected to because of the following informalities: claim 13, line 3, "progressive spectacle glass" should be "progressive lens". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamakaji et al US 2004/0032656, herein referred to as Yamakaji '565.

Regarding claim 1, Yamakaji '565 discloses a method of producing a progressive lens (Paragraphs 84, 107-108, 112, 129, 138-140, Figure 19) comprising: defining an ordering value for the average use value in the far reference point of the progressive lens (Paragraphs 112, 129,

Art Unit: 2873

132, and 138-140), optimizing the progressive lens so as to include accounting for a calculation value of the average use value in the far reference point (Paragraphs 100-103, 105, 112, 129, 132, and 138-140, Figures 7-9, 12, and 18, wherein the power error with respect to the desired distance power correction is used to optimize the progressive lens), the calculation value having a negative desired refraction deviation between 0.03 dpt and 0.2 dpt with respect to the ordering value in the far reference point (Paragraphs 138-140, and Figures 7-9, 12, and 18, wherein the desired refraction deviation is represented by the power error, which is used to optimize the lens as required for the user).

Regarding claim 2, Yamakaji '565 further discloses that the negative refraction deviation is between 0.08 dpt and 0.12 dpt (Figures 7-9, 12, and 18).

Regarding claims 3 and 14, Yamakaji '565 further discloses that the optimizing takes into account a calculation addition that is increased at least by the amount of the negative desired refraction deviation in the far reference point with respect to the ordering addition (Paragraphs 112, 129-132, and 138-140).

Regarding claim 4, Yamakaji '565 further discloses that the calculation addition is increased with respect to the ordering addition by the sum of the amount of the negative desired refraction deviation in the far reference point and of a positive desired refraction deviation between 0.02 dpt to 0.1 dpt (Paragraphs 100-103, 105, 112, 129, 132, Figures 7-9, 12, and 18).

Regarding claim 5, Yamakaji '565 further discloses that the positive desired refraction deviation amounts to approximately 0.05 dpt (Figures 7-9, 12, and 18).

Regarding claims 6 and 15-17, Yamakaji '565 further discloses that the optimizing takes place while taking into account a predetermined desired refraction error on the main line (visual

Art Unit: 2873

line, Figure 25) as a function of the y-coordinate along a vertical section of the progressive lens (Paragraphs 100, 120-122, Figure 7)

Regarding claims 7 and 18-19 Yamakaji '565 further discloses that the optimizing takes place such that the average use value of the progressive lens when produced after optimizing increases as little as possible in the case of a horizontal viewing deflection in the far range (Paragraphs 100-103 and 112, Figure 7-9 and 12).

Regarding claim 8, Yamakaji '565 further discloses that the optimizing takes place such that the average use value of the progressive lens after production thereof at the height of the far reference point in the case of a horizontal viewing deflection increases by less than 0.25 dpt, preferably less than 0.15 dpt, with respect to the average use value in the far reference point (Figures 7-9, 12, and 18).

Regarding claim 9, Yamakaji '565 discloses a progressive lens having a far part with a far reference point, a near part and a progression zone (Paragraphs 84, 107-108, 112, 129, 138-140, Figures 19 and 25), the progressive lens being optimized by taking into account a calculation value of the average use value in the far reference point (Paragraphs 100-103, 105, 112, 129, 132, 138-140, Figures 7-9, 12, and 18, wherein the power error with respect to the desired distance power correction is used to calculate the progressive lens), the calculation value with respect to a predefined ordering value of the average use value in the far reference point having a negative desired refraction deviation of between 0.03 dpt and 0.2 dpt (Figures 7-9, 12, and 18, wherein the desired refraction deviation is represented by the power error).

Regarding claim 10, Yamakaji '565 further discloses that the negative refraction deviation is between 0.08 dpt and 0.12 dpt (Figures 7-9, 12, and 18).

Art Unit: 2873

Regarding claim 11, Yamakaji '565 further discloses that the progressive lens is optimized by taking into account a calculation addition which is increased at least by the amount of the negative desired refraction deviation in the far reference point with respect to the ordering addition (Paragraphs 112, 129-132, and 138-140).

Regarding claim 12, Yamakaji '565 further discloses that the calculation addition is increased with respect to the ordering addition by the sum of the amount of the negative desired refraction deviation in the far reference point and of a positive desired refraction deviation between 0.02 dpt to 0.1 dpt (Paragraphs 100-103, 105, 112, 129, 132, Figures 7-9, 12, and 18).

Regarding claim 20, Yamakaji '565 further discloses that the progressive lens is optimized so as to take into account a calculation addition that is increased at least by the amount of the negative desired refraction deviation in the far reference point with respect to the ordering addition (Paragraphs 112, 129-132, and 138-140).

Regarding claim 13, Yamakaji '565 discloses a progressive lens having a far part, a near part and a progression zone (Paragraphs 84, 107-108, 112, 129, 138-140, Figures 19 and 25), wherein the progressive lens is optimized such that, in the case of a superimposition with a refraction error of +0.2 dpt (Figures 7-9, 12, and 18, wherein the desired refraction deviation is represented by the power error), the far range is reduced by not more than 5% (Paragraphs 138-140, Shown in Figures 7-9, 12, and 18).

### ***Response to Arguments***

Applicant's arguments filed August 3, 2009 have been fully considered but they are not persuasive. Specifically with respect to independent claims 1, 9, and 13, applicant argues that Yamakaji '565 does not disclose introducing a desired negative refractive deviation to the

Art Unit: 2873

calculation value. However, the examiner disagrees since Yamakaji '565 discloses optimizing the progressive lens (Paragraphs 100-103, 105, 112, 129, 132, and 138-140, specifically Paragraphs 112 and 138-140) so as to include accounting for a calculation value as claimed (defined as the "average power distribution" in Yamakaji '565) having a negative desired refraction deviation as claimed (Paragraphs 138-140, wherein the "average power error" is the deviation, which is a negative value in at least some examples as shown in the Figures).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA T. STULTZ whose telephone number is (571)272-2339. The examiner can normally be reached on M-F 8-4:30.

Art Unit: 2873

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jessica T Stultz  
Primary Examiner  
Art Unit 2873

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